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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

NICOLAS NERI,

Defendant and Appellant.

D040338

(Super. Ct. No. SCS165566)

APPEAL from a judgment of the Superior Court of San Diego County, Jeffrey F. Fraser, Judge. Affirmed.

Nicolas Neri waived jury and the court found he possessed marijuana for sale (Health & Saf. Code, § 11359) and transported marijuana (Health & Saf. Code, § 11360, subd. (a)). The court suspended imposition of sentence and placed him on three years' probation including a condition he serve 159 days in custody.

FACTS

On January 14, 2002, customs inspectors at the San Ysidro border crossing found 43 kilograms of marijuana in a van Neri was driving across the border. Neri waived his *Miranda* rights (*Miranda v. Arizona* (1966) 384 U.S. 436) and through a translator told Agent Jacobs that a person named "Jaime" offered him \$1,000 to smuggle the marijuana across the border.

DISCUSSION

Appointed appellate counsel has filed a brief setting forth the evidence in the superior court. Counsel presents no argument for reversal but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to as possible but not arguable issues: (1) whether the border search was in violation of Neri's Fourth Amendment rights; (2) whether introduction into evidence of a translation of what Neri told Jacobs violated the hearsay rule; (3) whether testimony of what Jaime told Neri was inadmissible hearsay; and (4) whether possession of marijuana for sale is a lesser included offense within transportation of marijuana.

We granted Neri permission to file a brief on his own behalf. He has not responded. A review of the entire record pursuant to *People v. Wende, supra*, 25 Cal.3d 436, including the possible issues referred to pursuant to *Anders v. California, supra*, 386 U.S. 738, has disclosed no reasonably arguable appellate issue. Competent counsel has represented Neri on this appeal.

DISPOSITION

Judgment affirmed.

O'ROURKE, J.

WE CONCUR:

KREMER, P. J.

HUFFMAN, J.